**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE**

**MONDAY, THE 2ND JULY 2007 / 11TH ASHADHA 1929**

**WP(C).No. 13744 of 2006(J)**
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**AGAINST THE ORDER DATED 17/03/2006 IN EP. 302 /2005 IN OS.745/2001 OF MUNSIFF COURT, PARAVUR**
**.....**

**PETITIONER:**
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**KALESAN @ KAMALESAN, S/O.SREEDHARAN,**
**AGED 35 YEARS, VAZHAMANA HOUSE, KARITHALA DESOM,**
**ERNAKULAM VILLAGE, KANAYANNUR TALUK.**

**BY ADV. SRI.C.A.CHACKO,**
**SMT.C.M.CHARISMA,**
**SRI.N.A.SHAFEEK.**

**RESPONDENT:**
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**K.G. JOY,**
**KALARIKKAL HOUSE, CHERUPULLY PARAMBU,**
**KALOOR P.O., KOCHI-682 017.**

**BY ADV. SRI.K.J.GLADIS.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02/07/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**W.P.(C). NO.13744/2006:**

**APPENDIX**

**PETITIONER'S EXHIBITS:**

**EXT.P.1: COPY OF THE EXECUTION PETITION FILED BEFORE THE MUNSIFF'S COURT, PARAVUR.**

**EXT.P.2: COPY OF THE EXECUTION PETITION FILED BEFORE THE MUNSIFF'S COURT, PARAVUR.**

**EXT.P.3: COPY OF THE ORDER DTD. 17/03/2006 IN E.P. NO. 302/2005.**

**RESPONDENT'S EXHIBITS: NIL.**

**//TRUE COPY//**

**prv.**

**PIUS C. KURIAKOSE,J.**

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W.P.(C) No.13744 of 2006

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Dated: 2nd July, 2007

**JUDGMENT**

The judgment-debtor defending proceedings for sale of the mortgage properties in execution of a mortgage decree is aggrieved by Ext.P3 order by which the court below fixed the upset price of the property at Rs.1,50,000/- and also ordered sale of the property from that upset price. This court while admitting the Writ Petition became inclined to grant interim stay only on condition that the petitioner pays or deposits a sum of Rs.10,000/- within two months from 26.5.2006. Learned counsel for the petitioner submits that the above condition was promptly complied with by the petitioner. Learned counsel further submits that by oversight the stay order could not be got extended even though condition imposed was complied with as a result of which sale was conducted. But when the learned Munsiff noticing the pendency of the Writ Petition before this court, has not confirmed the sale. The balance amount, according to the learned counsel, will be less than Rs.40,000/-. Learned counsel submits that the petitioner is prepared to pay the balance amount. Counsel for the respondent-decree-holder is not present. In view of the assertion of the learned counsel for the petitioner that sale has not been

confirmed, I am of the view that by way of indulgence the petitioner can be granted time till 15.11.2007 for paying the balance decree debt and the expenses incurred by the decree-holder for the conduct of the sale. Accordingly, the Writ Petition will stand disposed of issuing the following directions:

If the sale already conducted by the court is yet to be confirmed, the court below will not confirm the sale till 15.11.2007. It is open to the petitioner to pay all the amounts which are due to the decree-holder on account of the decree including the expenses incurred in connection with conduct of the sale. In the meanwhile, if it is reported by the decree-holder that all the amounts are received, then the learned Munsiff will favourably consider an application for setting aside sale to be filed by the petitioner noticing the settlement between the parties. At any rate the stay order will not continue beyond 15.11.2007.

srd **PIUS C.KURIAKOSE, JUDGE**